



# LABOR WORKS

A Publication of the Kentucky Labor Cabinet

Kentucky has long been recognized as having one of the most productive workforces in the United States. This is a great tool for Governor Beshear and the Economic Development Cabinet to use in promoting Kentucky to potential employers. It has also been my experience that Kentucky employers and employees are rapidly moving towards being one of the safest workforces.

Since the first of this year I have attended more than thirty celebrations all across the state recognizing the accomplishments of Kentucky companies and their employees in the area of safety and health in the workplace. So far we have celebrated more than 63 million hours without a lost time injury or illness in the workplace through the Governor's Safety Award Program.



Mark S. Brown  
Secretary Of Labor

The Division of Occupational Safety and Health Education and Training's Voluntary Partnership Branch recognizes and promotes effective, systematic safety and health management. The guiding principle is that management, labor and KY OSH work together in a spirit of cooperation and trust to achieve a safe and healthful workplace. Thus far this year we have recognized five new members of the Safety and Health achievement Recognition Program (SHARP). They are Gate Precast Inc. in Winchester, ADI in Louisville, National Office Furniture in Fordsville, Pittsburg Tank and Tower in Henderson, and Roll Forming Inc. in Shelbyville, who join 11 already established sites in protecting hundreds of Kentucky workers. The Partnership Branch also certified the G E Aviation Infrastructure facility in Erlanger as a Voluntary Protection Partnership site joining nine other such sites across Kentucky.

The Kentucky Labor Cabinet also entered into construction partnerships at three locations and entered cooperative educational partnerships with Builders Exchange in Louisville and Eastern Kentucky University's OSHA Training Institute.

The significance of all this activity is not only avoiding the human tragedies of injury or death in the workplace, but also avoiding the significant economic hardship for employers. Recent data indicates that the average cost for employers for a disabling injury is \$48,000 and almost \$1.3 million for each fatal injury suffered by employees.

The Division of Occupational Safety and Health Education and Training is providing cost-free consultative services and training programs to both the private and public sector in the Commonwealth to protect and enhance economic opportunities for one of its most important assets, its workforce.

If you are interested in learning more about the services provided by the Kentucky Labor Cabinet, go to our web site at [www.labor.ky.gov](http://www.labor.ky.gov) or contact us directly at 502-564-3070.



## Labor Cabinet—EKU Partnership

The Kentucky Labor Cabinet's Department of Workplace Standards and Eastern Kentucky University's OSHA Training Institute Education Center (OTIEC) have entered into a partnership that will advance their common goal of workplace safety.

At the conclusion of a news conference on the Richmond campus Monday, Oct. 3, Cabinet and University officials joined to sign the agreement, which calls for the partners to:

- sustain an open communications policy in a manner that encourages respect and understanding.
- share knowledge of the best work practices that improve job site safety and health performance.
- cooperate in the development and continuous improvement of safety training programs for the workplace and Kentucky Occupational Safety and Health personnel.
- promote the recognition for excellence in workplace safety throughout the Commonwealth.

Kentucky Labor Cabinet Secretary Mark Brown said Kentucky "is well-known for having a very productive workforce. What we're working for is having one of the safest workplaces in the nation."



## **Labor Cabinet—EKU Partnership continued**

Brown said the partnership with ECU OTIEC will improve efficiency.

"We are going through some tough economic times," he said, "and we are constantly looking for ways to improve and provide services in a more economical way. Working with the University, it's going to be a great partnership. The Kentucky Labor Cabinet is thrilled."

The registration fee for courses offered by OTIEC at ECU will be waived for Kentucky Labor Cabinet-Department of Workplace Standards employees. The class must have an available student slot open, and participants must meet course pre-requisites as defined by the U.S. Department of Labor. (Students may be required to supply their own training materials or purchase them from ECU OTIEC.)

The Kentucky Labor Cabinet-Department of Workplace Standards and ECU OTIEC will each have web links to the other party as an available resource, and OTIEC and Cabinet representatives will meet at least quarterly to discuss changes in regulations and policies and other updates in the safety field.

One purpose of the partnership is to provide ECU OTIEC with training and guidance applicable to its needs. All training provided by the Cabinet will be available to ECU OTIEC at no direct or indirect cost.

ECU hosts one of 25 OSHA Training Institute Education Centers across the U.S. Noting that ECU's Center ranks among the leaders nationwide in the numbers of students served, Dr. Charles Hickox, dean of Continuing Education and Outreach at ECU, said, "Our goal is to be number one in the nation every year."

Other speakers at the event were: Will Drake, administrator for the ECU OTIEC; Rich Boyle, associate dean of Continuing Education and Outreach at ECU; State Sen. Jared Carpenter; and State Rep. Rita Smart.

OTIEC was launched at ECU in 2003, according to Rich Boyle, and has grown to feature 10 full-time staff members and many instructors.

The Center serves Region IV, an eight-state region, and offers a variety of safety and health training courses, drawing upon the expertise of internationally recognized ECU faculty (both current and retired), as well as area safety and health professionals. ECU OTIEC also offers on-site customized training to meet specific organizational needs. For more information about ECU's OSHA Training Institute Education Center, visit [www.ceo.eku.edu/osha](http://www.ceo.eku.edu/osha) or call 859-622-2961.

ECU is the primary training provider for safety courses for the U.S. Army at the Combat Readiness/Safety Center at Fort Rucker in, Alabama. Eastern also has an ongoing partnership with the U.S. Army for safety courses. In the past year, the University has conducted training at Fort Rucker, Fort Hood in Texas, Fort Polk in Louisiana, Camp Coiner in Seoul, Korea, and at the annual U.S. Army Safety Symposium.

## General Counsel Update

### Staffing Agency Update

Last quarter *Labor Works* reported on an industry wide investigation of staffing agencies (commonly referred to as “temp agencies”). Since that publication the Labor Cabinet has made great headway in resolving over ten cases involving more than 10,000 Kentucky workers.

These cases arise from a unique Kentucky law KRS 336.220 that prohibits charging employees or prospective employees for the cost of medical exams and for the cost of furnishing documents. The consistent interpretation of this provision includes drug tests and background checks pre-employment requirements that cannot be charged back to the worker.

The Office of Employment Standards reports that the overwhelming majority of employers do not charge employees or prospective employees for the cost of drug tests or background checks. Investigators were surprised by the scope of these cases. However, the Cabinet is also pleased to report that only half of the staffing industry was engaging in the unlawful charges and when presented with the requirements of KRS 336.220, nearly every employer has corrected its practice and is in the process of making eligible workers whole.



### Public Construction Update

A Kentucky employer who was cited for failing to pay the prevailing wage made a very astute observation. Many subcontractors feel pressured to illegally classify workers as “independent contractors.” This employer suggested that the Labor Cabinet should announce a presence on the project from the outset, which would put the public authority and the general contractor on notice that wages and benefits would be closely monitored. The Office of the General Counsel has recommended to the Office of Employment Standards that they randomly select a project once a request for prevailing wage rates is received and that the wages be spot checked by comparing payroll logs with cancelled checks for each portion of the work every month. Notifying the parties at the beginning of the project that there will be heightened scrutiny may help employers hold the line at the lawful wages and benefits and not seek to gain competitive advantages through illegal practices such as misclassifying workers.

## Don't TEXT and DRIVE!

Everyone has seen it. You're driving along in your car and there in the next lane you spot another driver with a cell phone propped on the steering wheel, eyes locked on the screen, and thumbs working a keyboard, tapping out a text message. You watch the other car weaving back and forth, hoping that you can pass safely and that the texting driver will not cause an accident.

Texting while driving – the latest, most dangerous form of distracted driving – is a fast-growing hazard that endangers everyone. The human toll is tragic. The U.S. Department of Transportation (DOT) reports that in 2009 more than 5,400 people died in crashes linked to distraction and hundreds of thousands more were injured. With the explosive growth of cell phones and texting technology, the numbers will only get worse – unless we do something about it. There's no question that new communications technologies are helping businesses work smarter and faster. But getting work done faster does not justify the dramatically increased risk of injury and death that comes with texting while driving.



Most people know that it's dangerous to text and drive, but there's another fact that most people probably don't know: vehicle crashes are the leading cause, year after year, of worker fatalities. Because millions of workers' jobs require them to spend part or all of their work day driving – visiting clients and customers, making site visits, or delivering goods and services – the Departments of Labor (DOL) and Transportation (DOT) and other safety agencies, organizations and allies have joined forces in a campaign to stop distracted driving and save lives.

President Obama took the first step in 2009 with an Executive Order banning texting for all Federal employees. Thirty-two states and the District of Columbia have already passed

measures to make their roadways safe from this hazard and OSHA, DOT and other agencies and organizations have given this issue high priority.

Employers have a special role to play in this effort because of their legal obligation under the Occupational Safety and Health Act (OSH Act) to protect workers' safety. OSHA started by reaching out to employers to remind them that their obligation applies to *all* of their employees, including the millions of people who do their work behind the wheel of a vehicle – whether they drive full-time or just now and then.

Companies are in violation of the OSH Act if, by policy or practice, they require texting while driving, create incentives that encourage or condone it, or structure work so that texting is a practical necessity for workers to carry out their job. On OSHA's [distracted driving webpage](#), you'll find a letter to employers and a video in which David Michaels, the Assistant Secretary of Labor who heads OSHA, lays out the safety challenge posed by texting and driving and employers' roles in addressing this challenge. Also available on the webpage is a [Distracted Driving: No Texting brochure](#) which explains to employers and supervisors the importance of never requiring texting by their workers while driving.

Now OSHA is asking employers to do their part by declaring their vehicles "text-free zones" and reinforcing that declaration with worker education and with policies that explicitly ban texting while driving. OSHA is also asking employers to revise any practice and procedure, written or unwritten, that either condones or requires drivers to text behind the wheel as a necessary part of doing their job.

## Don't TEXT and DRIVE

OSHA believes that most employers will willingly step up to this challenge, and will seize on this safety campaign as an opportunity not only to enhance protection for their workers, but also to project a positive, responsible image of their businesses to their customers and communities. OSHA's staff will support the efforts of these employers by providing educational materials and model policies for their use. The instruction to prohibit texting while driving will be an important part of the assistance delivered to employers every day by agency staff all across the country.

At the same time, OSHA is also reaching out to workers to let them know that an employer who requires them to text while they are behind the wheel – whether by policy or through procedures that make it a practical necessity of their job – is violating the OSH Act. When OSHA receives a credible complaint that such violations are occurring, the agency will investigate and, where warranted, issue citations and penalties to end this practice.

Young workers are especially vulnerable to the hazard of texting while driving. Not only is texting their preferred method of communication, they are also – as new workers – less likely to know their safety rights and more hesitant to assert them. Working with other Labor Department agencies and stakeholders, OSHA will make special efforts to reach and educate this at-risk group.

Texting while driving is a big and growing hazard and it will take a strong, concerted effort to bring this problem under control. [Association name] supports the national campaign to combat distracted driving and to prohibit texting while driving. We urge our members, associates and allies to join in this effort. Together we can help reduce the great danger posed by drivers who send, receive and read text messages while behind the wheel of their vehicle.

Texting while you drive is officially against the law in Kentucky.

Governor Steve Beshear says he signed the texting ban into law to try to reduce deadly highway accidents in the state. Distracted drivers are blamed for as many as 57,000 crashes in Kentucky, and 200 highway fatalities, in 2010 alone.

The new ban will also keep teenagers under 18 from using cell phones while driving, for any reason. Teenagers risk of distracted driving has traditionally been found to be higher than adults.



***The Labor Cabinet's mission is to administer Kentucky's workplace standards and workers' compensation laws through education, mediation, adjudication and enforcement, in order to promote safe, healthful and quality working environments for employees and employers; to foster cooperative relationships between labor and management; and to promote fair compensation.***

## National Office Furniture presented SHARPS award.

National Office Furniture, a brand unit of Kimball International, Inc., and manufacturer of quality, sustainable contract office furniture, received an award for its Fordsville facility taking extraordinary measures to ensure the safety and health of its employees.

A plaque signifying the company's certification under the Safety and Health Achievement Recognition Program (SHARP) was presented to the employees of National Office Furniture's Fordsville facility by Secretary Mark S. Brown of the Kentucky Labor Cabinet. The plaque was accepted by Mr. Josh Calloway, Safety/Environmental Manager and the Safety Committee.

"SHARP recognizes employers who operate exemplary safety and health management systems and are committed to making safety for employees a priority" said Mr. Brown during today's award ceremony. "I am delighted to be here today to recognize National Office Furniture Company for their significant achievements in safety."

The Fordsville facility has been working diligently implementing injury prevention, safety and health awareness programs in becoming the 14th company in Kentucky to attain SHARP certification. The injury and illness rate (Total Case Rate) at National Office Furniture's Fordsville facility is approximately 71 percent below the national average for the manufacturing industry.

"Our goal is to take care of our people and create a safe work environment. The SHARP certification underscores the awareness and commitment our employees demonstrate in the pursuit of safety excellence. Improving safety will always be a top priority at National Office Furniture," said Mr. Calloway.



The U.S. Department of Labor designed SHARP to encourage and recognize excellence in occupational safety and health among employers and create a proactive partnership with its Occupational Safety & Health Administration (OSHA). Although companies must meet federal standards for the program, the Kentucky Labor Cabinet presents the award since Kentucky has operated its own federally approved Occupational Safety and Health (KY-OSH) program for over 35 years.

More information on SHARP and the State of Kentucky's health and safety standards and programs can be found at

<http://www.labor.ky.gov/dows/oshp/doet/partnership/Pages/SHARPS---Safety-and-Health-Acheivement-Recognition-Program.aspx>

### About National Office Furniture:

National Office Furniture, a brand unit of Kimball International, Inc. (NASDAQ: KBALB), is a Jasper, Indiana-based manufacturer of high-quality office furnishings. Since 1980, National has built a reputation for excellence with stylish furniture of exceptional value; a dedication to personalized service; product designs that reflect a passion for the user's comfort and productivity; and a commitment to environmental responsibility. For more information about National and its products, visit: [www.NationalOfficeFurniture.com](http://www.NationalOfficeFurniture.com)

## SHARPS Award

### SHARP - Safety and Health

#### Achievement Recognition Program:

The U.S. Department of Labor designed SHARP to encourage and recognize excellence in occupational safety and health among employers and create a proactive partnership with OSHA. The SHARP's program is a partnership through the Division of Education & Training within OSHA. It is administered through the Department of Labor, OSHA. To qualify for SHARP, companies must undergo a comprehensive evaluation and series of audits, correct any identified hazards, demonstrate that effective safety and health programs are in place, and maintain injury



rates below the national average for their industry for the last three years. Companies must have a safety and health program that involves all employees in finding and correcting existing or possible future hazards as they develop. SHARP's certification is good for two years and then can be renewed. A company is exempted from scheduled KY-OSH compliance inspections during the certification period but partners with KY-OSH to continuously strive to improve their safety program.

The other KY companies currently having SHARP certification are:

Uncle Charlie's Meats-Richmond, E.D. Bullard Co.-Cynthiana, Multicorr Co.-Louisville, Federal Mogul Maysville-Maysville, Washington Penn Plastic Co.-Frankfort, Maker's Mark Co.-Loretto, Zappos F/C Center-Shepherdsville, American Woodmark Co.- Monticello, Univance Inc.-Winchester, Ceradyne Inc.- Lexington, SUN Products - Bowling Green, Gate Precast Co.-Winchester and ADI in Louisville-Louisville.



## **Congratulations Clark Material Handling Louisville, Governor's Safety and Health Award Winner**



## Proposed OSHA Rule regarding Injury and Illness Recording and Reporting

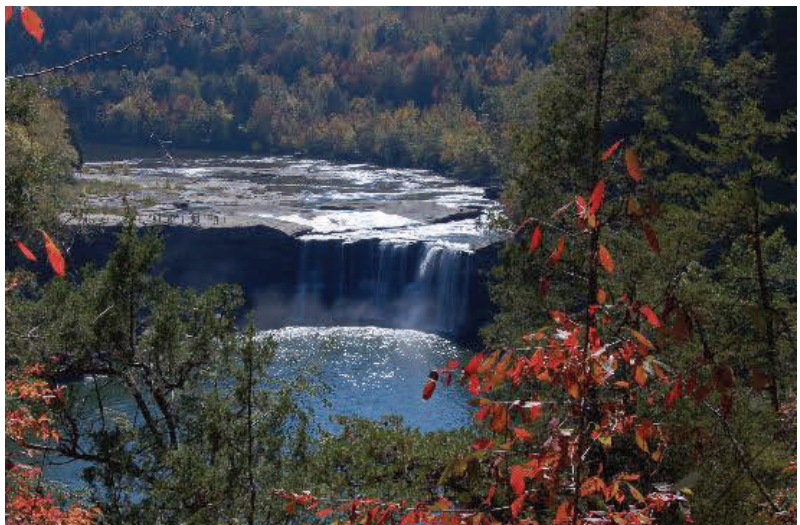
On June 22, 2011, the Occupational Safety and Health Administration (OSHA) published a [proposed rule](#) in the *Federal Register* amending the injury and illness recording and reporting requirements. The proposed rule affects two (2) sections of 29 Code of Federal Regulations (CFR) Part 1904. First, the rule proposes revisions to the list of industries that are partially exempt from maintaining records of injuries and illnesses. The list of partially exempt industries is presently based on the Standard Industrial Classification codes. OSHA's proposed rule seeks to update the partially exempt list based on the North American Industry Classification System codes. Second, OSHA's proposed rule amends the reporting requirements regarding hospitalizations and amputations. The current rule, [29 CFR 1904.39](#), requires employers to report the in-patient hospitalization of three (3) or more employees. OSHA's proposed rule requires employers to report all work-related in-patient hospitalizations and all work-related amputations.

The reporting requirements in OSHA's proposed rule are very similar to requirements that have been in effect in Kentucky since 2005. Like OSHA's proposed rule, Kentucky's state-specific requirement, found in 803 Kentucky Administrative Regulation (KAR) 2:180, requires employers to report all work-related in-patient hospitalizations and all amputations. There are some minor differences in [803 KAR 2:180](#) and OSHA's proposed rule. The main difference relates to the amount of time an employer has to report an amputation or hospitalization. Kentucky allows employers seventy-two (72) hours to report all amputations and the hospitalization of less than three (3) employees. OSHA is proposing that all amputations be reported within twenty-four (24) hours and all hospitalizations be reported within eight (8) hours.

The Labor Cabinet generally supports OSHA's proposed rule. However, the Cabinet believes its current reporting requirements effectively and efficiently serve Kentucky's employers and employees. The Department of Workplace Standards submitted comments requesting that OSHA establish a final rule with a seventy-two (72) hour reporting window; or allow Kentucky to keep its seventy-two (72) hour reporting window if OSHA moves forward with the proposed eight (8) and twenty-four (24) hour requirement.

All comments submitted to OSHA may be reviewed at [www.regulations.gov](http://www.regulations.gov).

**"Please join the Network of Women in State Government for our monthly meeting on October 26, 2011. The Network meets on the forth Wednesday of every month, at 12:00p.m., at the Capitol Plaza Hotel, 405 Wilkinson Blvd., Frankfort. The Network provides professional and personal development opportunities, information, and resources for women employed by the Commonwealth of KY. "**



## Governor's Award Presented to Organized Labor Community

Last year, our state reported 62,081 children as being abused or neglected –not one organization, entity, community or elected official can prevent the harm that comes to our children –but Prevent Child Abuse Kentucky is working with more than 100 partners to expand its programs and services to ensure prevention services are offered in each of our 120 counties. The Governor's award is presented to an individual, group, agency or entity that has, over the span of time, had an exemplary record of involvement in a number of capacities relating to child abuse and neglect prevention. The organized labor community was recently awarded the prestigious Governor's Award by Prevent Child Abuse Kentucky (PCAK) at the 15<sup>th</sup> annual **KIDS ARE WORTH IT!** conference.

For more than 15 years, the organized labor community has been a partner with Prevent Child Abuse Kentucky. Representatives from a number of organized labor communities –spanning Building & Construction Trades Council, United Food & Commercial Workers, Teamsters, Carpenters and others, have all forged a united partnership with PCAK around the important mission of preventing the abuse and neglect of Kentucky's children.

The organized labor community has helped PCAK raise more than \$300,000, recruited numerous volunteers, allowed for prevention materials and information to be distributed to their members and communities, provided access to their contacts, and have always been a willing partner in outreach activities. The executive director of PCAK, Jill Seyfred, says "the leaders and members of the organized labor community have become our mentors, friends and key constituents. They go above and beyond and are there when PCAK and local communities need their help the most."

When Jill goes to the annual meeting of PCA Chapters across the country, she is often asked how this partnership has developed. There is no one easy answer –it has taken different people at different times, representing various facets of the labor community to step forward and say "this issue is important." The partnership with organized labor and Prevent Child Abuse is a model for many, and thus far, not duplicated by any –we think it is a testament to the fine leaders and partners we have.

This award is shared by many, and, as such, it will be housed in the offices of the Kentucky Labor Cabinet, under the leadership of Secretary Mark Brown.

Congratulations to the organized labor community.

Prevent Child Abuse Kentucky is the state's only statewide child abuse prevention organization. To find out how to help, please contact them at:

Prevent Child Abuse Kentucky  
300 East Main Street – Suite 110  
Lexington, KY 40507  
859-225-8879  
1-800-CHILDREN  
[www.pcaky.org](http://www.pcaky.org)

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